

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ZACHARY DON GILLASPIE,)
ID # 2055943,)
Petitioner,)
vs.) No. 3:16-CV-2833-B
)
WARDEN MACKEY, et al.,)
Respondent.)

**ORDER ACCEPTING FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

After reviewing all relevant matters of record in this case, including the Findings, Conclusions, and Recommendation of the United States Magistrate Judge and any objections thereto, in accordance with 28 U.S.C. § 636(b)(1), the Court is of the opinion that the Findings and Conclusions of the Magistrate Judge are correct and they are accepted as the Findings and Conclusions of the Court.

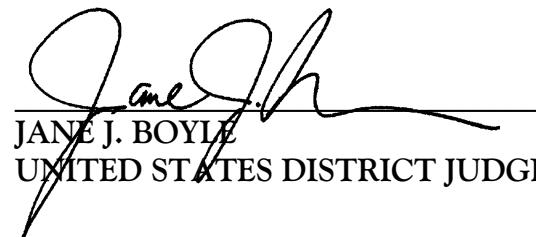
For the reasons stated in the Findings, Conclusions, and Recommendation of the United States Magistrate Judge, the petition for habeas corpus is successive and is hereby **TRANSFERRED** to the United States Court of Appeals for the Fifth Circuit pursuant to *Henderson v. Haro*, 282 F.3d 862, 864 (5th Cir. 2002), and *In re Epps*, 127 F.3d 364, 365 (5th Cir. 1997).¹

The Clerk of the Court is **DIRECTED** to (1) terminate the post-judgment motions (docs. 61, 63, 64) in this habeas case; (2) open a new habeas case for administrative purposes only; (3) docket the post-judgment motions (docs. 61, 63, 64) in that new case as a § 2254 petition filed October 17, 2017; (4) directly assign the new case to the same District Judge and Magistrate Judge

¹ A certificate of appealability (COA) is not required to appeal an order transferring a successive habeas petition. See *In re Garrett*, 633 F. App'x 260, 261 (5th Cir. 2016); *United States v. Fulton*, 780 F.3d 683 (5th Cir. 2015).

as in this case; (5) file a copy of the Findings, Conclusions, and Recommendation of the United States Magistrate Judge and the order accepting those Findings, Conclusions, and Recommendation , and the judgment in that new case; and (6) and without further judicial action, immediately **TRANSFER** the newly opened § 2254 action to the United States Court of Appeals for the Fifth Circuit.

SIGNED this 3rd day of January, 2018.



JANE J. BOYLE
UNITED STATES DISTRICT JUDGE